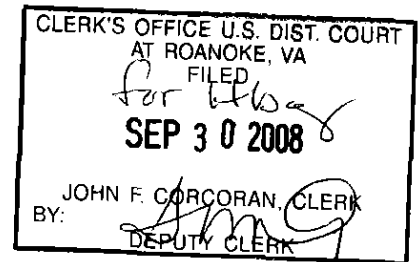


IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION



UNITED STATES OF AMERICA)	Criminal Case No. 5:05-cr-00012-1
Plaintiff,)	(2255 Case No. 5:08-cv-80074)
)	
v.)	<u>2255 FINAL ORDER</u>
)	
CHRISTOPHER EARL TUTEN,)	By: Hon. Glen E. Conrad
Defendant.)	United States District Judge

In accordance with the accompanying memorandum opinion, it is hereby

ORDERED and ADJUDGED

as follows:

1. the above-referenced motion to vacate, set aside or correct sentence, pursuant to 28 U.S.C. § 2255, is hereby **GRANTED**;⁶
2. Criminal Case No. 5:05-cr-00012-1 is hereby **REINSTATED** to the active docket of the court;
3. the defendant's conviction and sentence as to Count Two of the indictment are hereby **VACATED**; and
4. the defendant's sentence as to Count One of the indictment is hereby **VACATED** and the government shall return the defendant to court for resentencing as to Count One, following preparation of an amended presentence investigation report.

The Clerk is directed to send copies of this order and the accompanying memorandum opinion to the petitioner and counsel of record for the government.

ENTER: This 30th day of SEPTEMBER, 2008.


United States District Judge

⁶This order terminates the defendant's civil action under § 2255, and all other action in the case will proceed under the Federal Rules of Criminal Procedure.